

1 Jason Varnado (State Bar No. 211067)  
jvarnado@jonesday.com  
2 JONES DAY  
717 Texas, Suite 3300  
3 Houston, TX 77002  
Telephone +1-832-239-3939  
4 Facsimile +1-832-239-3600

Kathryn Keneally (appearance *pro hac vice*)  
New York State Bar No. 1866250  
kkeneally@jonesday.com  
JONES DAY  
250 Vesey Street  
New York, NY 10281-047  
Telephone: +1-212-326-3939  
Facsimile: +1-212-755-7306

5 Neal J. Stephens (State Bar No. 152071)  
nstephens@jonesday.com  
6 Vincent Doctor (State Bar No. 319408)  
vdoctor@jonesday.com  
7 JONES DAY  
1755 Embarcadero Road  
8 Palo Alto, CA 94303  
Telephone: +1.650.739.3939  
9 Facsimile: +1.650.739.3900

10 Attorneys for Defendant  
ROBERT T. BROCKMAN

11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14  
15 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA,  
17  
18 Plaintiff,  
19  
20 v.  
21 ROBERT T. BROCKMAN,  
22  
23 Defendant.

Case No. 3:20-cr-00371-WHA

DECLARATION OF JAMES L. POOL,  
M.D., IN SUPPORT OF ROBERT T.  
BROCKMAN'S MOTION TO  
TRANSFER PROCEEDINGS

21 **DECLARATION OF JAMES L. POOL, M.D.**

22 I, James L. Pool, M.D., declare as follows:

23 1. I am a Professor in the Departments of Medicine and Pharmacology and a treating  
24 internal medicine physician at the Baylor College of Medicine, in Houston, Texas, where I hold  
25 the James L. Pool Presidential Endowed Chair in Clinical Pharmacology.

26 2. I make this Declaration at the request of his counsel in support of Mr. Brockman's  
27 Motion to Transfer Proceedings to the United States District Court for the Southern District of  
28 Texas.

1           3.       Mr. Brockman was referred to me by Dr. Seth P. Lerner (Baylor College of  
2       Medicine, Department of Urology), who had previously treated Mr. Brockman for bladder cancer.  
3       I conducted a complete physical examination of Mr. Brockman on December 11, 2018. It  
4       became evident from my examination that Mr. Brockman was experiencing movement disorders  
5       and cognitive problems that are consistent with Parkinson's disease or parkinsonism.

6           4.       I referred Mr. Brockman to three other medical professionals: Joseph Jankovic,  
7       M.D., a neurologist and specialist in Parkinson's disease and other movement disorders; Melissa  
8       Yu, M.D., a neurologist and specialist in Alzheimer's Disease and other memory disorders; and  
9       Michele K. York, Ph.D., a neuropsychologist, all with Baylor College of Medicine.

10          5.       Each of these doctors provided me with reports following their examinations.  
11       Their conclusions support that Mr. Brockman presented symptoms that are consistent with  
12       Parkinson's Disease, parkinsonism, Lewy body dementia, or some combination. These diagnoses  
13       cannot be totally confirmed except at autopsy. None of these conditions are curable, and each  
14       may result in rigid muscles, slow movements, and tremors. All are characterized by progressive  
15       dementia, and in Mr. Brockman's case, the medical reports confirm cognitive impairment, which  
16       includes, but is not limited to, both short and long term memory loss.

17          6.       I examined Mr. Brockman again on October 6, 2020. At that time, I conducted  
18       cognitive tests, and again referred Mr. Brockman to Dr. York for a further battery of tests. The  
19       results of these examinations confirm that Mr. Brockman's impairment is progressive.

20          7.       At this stage, Mr. Brockman may be oriented in time and place, aware of persons  
21       in his company, able to engage in social conversation, and capable of functioning in familiar  
22       tasks. However, Mr. Brockman's progressive dementia impairs his cognitive ability in several  
23       respects. These include short term memory limitations. In addition, his condition renders long-  
24       term memory inaccessible and defective. For these reasons, I concur with the medical position  
25       that Mr. Brockman cannot assist his attorneys in his defense.

26          8.       I understand that Mr. Brockman's counsel will make a motion for a hearing to  
27       determine that Mr. Brockman cannot assist in his defense, and that this motion will be supported  
28       by the medical reports and letters previously provided to them by me, Dr. Jankovic, Dr. Yu, and

1 Dr. York. I also understand that counsel will want to present testimony from each of us to  
2 explain how we reached our conclusions. We are all based in Houston. Under ordinary  
3 circumstances, it would be difficult for us to be present for a hearing in San Francisco, where this  
4 court is located. Under the current circumstances of the COVID-19 pandemic, we would be  
5 confronted with the increased risk of exposure at a time when the Centers for Disease Control and  
6 Prevention and other medical advisors are counseling against travel, the potential need to  
7 quarantine before and after travel, and the detrimental impact any absence or illness may have on  
8 our other patients.

9 9. It is also not medically advisable for Mr. Brockman to travel to San Francisco for a  
10 hearing or for trial. Mr. Brockman is 79 years old and suffers from underlying medical  
11 conditions that put him at increased risk for severe illness if he were to contract COVID-19.

12 10. Additionally, requiring Mr. Brockman to face legal proceedings in a location  
13 distant from his home will be disorienting in a manner that could accelerate the deterioration of  
14 his mental condition. Unfamiliar environments, stimulating surroundings, and changes in routine  
15 would be especially stressful for a person with Mr. Brockman's diminished capacity, creating a  
16 risk to his existing cardiac condition, and could exacerbate the overall progression of his  
17 symptoms.

18 11. Based on the foregoing, I respectfully submit this Declaration in support of Mr.  
19 Brockman's Motion to Transfer Proceedings to the United States District Court for the Southern  
20 District of Texas.

21 12. I declare under penalty of perjury that the foregoing is true and correct.

22  
23 Executed in Houston, Texas on November 25, 2020.

24  
25  
26   
27 James L. Pool, M.D.  
28